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DEPARTMENT OF COMMERCE

PTO/SB61 (10-00)

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#9

<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)</b>		<b>Docket Number (Optional)</b>
First named Inventor: <u>ASHLEY STUART DAVIS</u> Application Number: <u>09/725,030</u> Filed: <u>11/29/2000</u> Title: <u>ANTI-S-PHASE TUBULIN LIGANDS</u>	Group Art Unit: <u>1653</u> Examiner: <u>DAVID LUKTON</u>	
Attention: Office of Petitions Assistant Commissioner for Patents Box DAC Washington, D.C. 20231		
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.		
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.		
APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION NOTE: A grantable petition requires the following items:		
(1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer with disclaimer fee—required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Adequate showing of the cause of unavoidable delay		
1. Petition fee <input checked="" type="checkbox"/> small entity - fee \$ <u>55<sup>00</sup></u> (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27. <input type="checkbox"/> other than small entity - fee \$ _____ (37 CFR 1.17(l)).		
2. Reply and/or fee A. The reply and/or fee to the above-noted Office action in the form of <u>LETTER BY FEDEX</u> (identify the type of reply): <input checked="" type="checkbox"/> has been filed previously on <u>31st JULY 2002</u> . <input checked="" type="checkbox"/> is enclosed herewith. <u>Letter</u>		
B. The issue fee of \$ <u>55<sup>00</sup></u> <input type="checkbox"/> has been paid previously on _____ <input checked="" type="checkbox"/> is enclosed herewith.		

(Page 1 of 3)

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

**3. Terminal disclaimer with disclaimer fee**

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity of \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

**4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

10/8/2002  
Date

A. S. Davis  
Signature

Telephone  
Number: (303) 322 2254

A. S. DAVIS  
Typed or printed name

1830 S. ALOMA ST.  
Address

DENVER CO 80223 USA.

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay

☐ \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.
- ☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6816.

10/9/2002  
Date

A. S. Davis  
Signature

A. S. DAVIS  
Typed or printed name of person signing certificate

[Page 2 of 3]

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UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

10/8/2002  
Date

*A.S. Davis*  
Signature

A. S. DAVIS  
Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

Adequate showing of unavoidable delay

As soon as it was apparent that the patent was deemed abandoned (see attached Letter dated July 31<sup>st</sup> 2002 to the USPTO) a letter was sent to revive it (letter dated 31<sup>st</sup> July 2002). We never received a letter alerting us to this point and that is witnessed by Dr. Kim Middleton (CEO & President) and myself. Cytoskeleton Inc. has eleven employees and in such a small company there are checks, payroll, insurance and USPTO letters delivered to the same address, therefore it is necessary for Dr. Kim Middleton and myself to open all the mail directly. Both Dr. Kim Middleton and myself state by signing below that neither of us has ever received a letter stating that Patent Application 09/725,030 was due for abandonment.

*A.S. Davis*  
*Kim Middleton*

(Please attach additional sheets if additional space is necessary)

[Page 3 of 3]

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